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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/676,200	10/01/2003	Cyril Allouche	14XZ125560	7095

7590 04/12/2007
Jay L. Chaskin
Cantor Colburn LLP
55 Griffin Road South
Bloomfield, CT 06002

EXAMINER

SMITH, JEFFREY S

ART UNIT	PAPER NUMBER
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2624

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/12/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/676,200	Applicant(s) ALLOUCHE, CYRIL	
	Examiner Jeffrey S. Smith	Art Unit 2624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-54 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-54 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the several "computer readable means for causing ..." as recited in claims 51-53, and the several "program of instructions embodied in a medium for causing ..." as recited in claim 54 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required.

In claims 51-53, the various elements in modified means plus function format.

In claim 52, the computer program product.

In claim 53, the article of manufacture.

In claim 54, the program storage device readable by a machine tangibly embodying a program of instructions executable by the machine to perform steps of a method, and the various elements in program of instructions embodied in a medium for causing the machine format.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 51-54 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

For claims 51-53, which recite various elements in modified means plus function format, for claim 52, which recites a computer program product, and claim 53, which recites an article of manufacture, the disclosure and drawings of the present invention fail to provide clear and adequate support for making and using the various elements as recited in the claims.

For claim 54, the disclosure and drawings of the present invention fail to provide clear and adequate support for making and using a program storage device readable by a machine tangibly embodying a program of instructions executable by the machine, and fail to provide clear and adequate support for the various elements for the program of instructions embodied in the medium for causing the machine to provide for.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 53 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrase "the same processing operations" lacks antecedent basis and is vague and indefinite. The claim must identify what the same processing operations are. For example, the phrase "the same processing operations" should be "the same computing and discriminating processing operations."

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-54 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

For claims 1-50, even though the claims appear to be directed to a seemingly statutory method, the claims are directed to a mathematical algorithm or abstract idea without any practical application that produces a tangible, concrete and useful result (Annex 5 of 101 interim guidelines).

Claim 51 recites a computer program per se that does not fall within an enumerated statutory category.

The preamble should be changed to a "computer readable medium encoded with computer executable instructions which, when executed by a computer, causes the computer to perform a method comprising." The phrases beginning with "computer readable program code means for causing a computer to provide for" should be deleted.

For claim 52, the element computer program product is not supported by the specification and drawings. This term should be deleted from the claim. Also, the changes made to claim 51 should be made to claim 52. However, after making the changes, claim 52 will be identical to claim 51. If claim 52 is made to be identical to claim 51, then this claim should be deleted.

For claim 53, the element article of manufacture is not supported by the specification and drawings. This term should be deleted from the claim. Also, the

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Claims 1-54 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

For claims 1-50, even though the claims appear to be directed to a seemingly statutory method, the claims are directed to a mathematical algorithm or abstract idea without any practical application that produces a tangible, concrete and useful result (Annex 5 of 101 interim guidelines).

Claim 51 recites a computer program per se that does not fall within an enumerated statutory category.

The preamble should be changed to a "computer readable medium encoded with computer executable instructions which, when executed by a computer, causes the computer to perform a method comprising." The phrases beginning with "computer readable program code means for causing a computer to provide for" should be deleted.

For claim 52, the element computer program product is not supported by the specification and drawings. This term should be deleted from the claim. Also, the changes made to claim 51 should be made to claim 52. However, after making the changes, claim 52 will be identical to claim 51. If claim 52 is made to be identical to claim 51, then this claim should be deleted.

For claim 53, the element article of manufacture is not supported by the specification and drawings. This term should be deleted from the claim. Also, the

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changes made to claim 51 should be made to claim 53. However, after making the changes, claim 53 will be identical to claim 51. If claim 53 is identical to claim 51, then this claim should be deleted.

Claim 54 appears to be directed to a seemingly statutory article of manufacture, however, the claim recites a computer program per se that does not fall within an enumerated statutory category. For example, the program storage device is not defined in the disclosure nor the claim as a computer readable storage device. Furthermore, the machine is not defined in the disclosure nor the claim as a computer processing system. Also, the medium is not defined in the disclosure nor the claim as a computer readable medium. The changes made to claim 51 should be made to claim 54. However, after making the changes, claim 54 will be identical to claim 51. In this case, claim 54 should be deleted.

Conclusion

Applicant's arguments filed March 6, 2007 have been fully considered but they are not persuasive. Applicant states that he amended claim 51 to overcome the rejection under 35 U.S.C. 101. However, the amendment to claim 51 appears directed to other rejections, not to the 101 rejection.

Applicant cites paragraph 20 of the specification as providing support for the various claim elements. However, this is not true for the reasons given in the rejections above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey S. Smith whose telephone number is 571 270-1235. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jingge Wu can be reached on 571 272-7429. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JSS
April 10, 2007



JINGGE WU
SUPERVISORY PATENT EXAMINER